

**Exhibit C**  
**Part 2 of 2**

UNITED LAWYERS

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
JESUS VARGAS,

Index No. 22230-06

Plaintiff,

- against -

VERIFIED ANSWER

LEONARDO RODRIGUEZ and FEDERAL EXPRESS  
CORP.,

Defendants.

-----X

Defendants, FEDERAL EXPRESS CORPORATION and LEONARDO RODRIGUEZ  
(collectively hereinafter referred to as "Defendants"), by their attorney, ANTHONY W.  
ECKERT, III, ESQ., as and for their Verified Answer to the Verified Complaint, allege as  
follows:

**AS AND FOR AN ANSWER TO  
THE FIRST CAUSE OF ACTION**

**FIRST:** Deny information or knowledge sufficient to form a belief as to the truth  
of the allegations set forth in paragraphs "1", "3" and "16" of the Verified Complaint herein.

**SECOND:** Deny the allegations set forth in paragraphs "2", "4", "11", "13", "15",  
"18", "19", "20", "21", "22", "23", "24" and "25" of the Verified Complaint herein.

**THIRD:** Deny the allegations set forth in paragraphs "5", "6", "7", "8", "9", "10", "12",  
"14" and "17" of the Verified Complaint herein and refer all questions of law to the Court for  
determination.

**AFFIRMATIVE DEFENSES**

**AS AND FOR A FIRST AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**FOURTH:** If plaintiff sustained or suffered damages as alleged in the Verified Complaint, which Defendants expressly deny, such damages were caused in whole or in part by plaintiff's negligence, culpable conduct, or assumption of risk, and to the extent of her culpability, plaintiff is barred from recovery or, alternatively, shall have her damages reduced in the proportion that her culpable conduct bears to all conduct causing or contribution to such damages.

**AS AND FOR A SECOND AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**FIFTH:** If plaintiff sustained or suffered damages as alleged in the Verified Complaint, which Defendants expressly deny, such damages were suffered and sustained by reason of the negligence or other culpable conduct of persons or entities over whom Defendants exercised no control or supervision, and not by reason of any culpable conduct of Defendants.

**AS AND FOR A THIRD AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**SIXTH:** Plaintiff did not sustain serious and permanent injuries as defined by Section 5102 of the Insurance Law of the State of New York, and her exclusive remedy is confined and limited to the benefits and provisions of Article 51 of the Insurance Law of the State of New York.

**AS AND FOR A FOURTH AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**SEVENTH:** Plaintiff's action is barred by Article 51, Section 5104 of the Insurance Law of the State of New York.

**AS AND FOR A FIFTH AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**EIGHTH:** Plaintiff's recovery, if any, shall be reduced by the amount of any collateral payments received, in accordance with CPLR §4545.

**AS AND FOR A SIXTH AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**NINTH:** The Verified Complaint fails to state a cause of action against Defendant upon which relief may be granted.

**AS AND FOR A SEVENTH AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**TENTH:** Plaintiff's injuries were caused in whole or in part by her own negligence and, accordingly, her claim is barred or reduced by the applicable state law of comparative negligence.

**AS AND FOR AN EIGHTH AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**ELEVENTH:** Defendant asserts that this case falls within the limited liability provisions of section 1601 of the Civil Practice Law and Rules, and that the Defendant's liability for non-

economic loss, if any, shall be limited to its equitable share determined in accordance with the relative culpability of each person causing or contributing to the total liability.

**AS AND FOR A NINTH AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**TWELFTH:** Plaintiff's claims are barred and/or diminished in that plaintiff was not wearing a seatbelt at the time and place of the incident described in plaintiff's Verified Complaint. That any damages, injury and/or injuries sustained by plaintiff were caused in whole or in part by the failure of plaintiff to use seatbelts and/or other safety restraint devices which would have avoided or mitigated plaintiff's damages, and the amount of damages found, if any, are to be apportioned among the plaintiff and the Defendants according to the degree of responsibility that each is found to have in the occurrence in proportion to the entire responsibility of the occurrence.

**AS AND FOR A TENTH AFFIRMATIVE  
DEFENSE ON BEHALF OF DEFENDANTS**

**THIRTEENTH:** That the Court does not have jurisdiction over the person of the Defendants herein, in that the Summons and Verified Complaint were not personally served upon the Defendants.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE  
DEFENSE ON BEHALF OF DEFENDANTS**

**FOURTEENTH:** The plaintiff has failed to use all available means to mitigate damages.

**AS AND FOR TWELFTH AFFIRMATIVE DEFENSE  
DEFENSE ON BEHALF OF DEFENDANTS**

**FIFTEENTH:** Plaintiff's causes of action are time-barred pursuant to the applicable Statute of Limitations.

**WHEREFORE**, Defendants Federal Express Corporation and Leonardo Rodriguez demand judgment dismissing plaintiff's Verified Complaint herein, together with costs and disbursements of this action and for such other and further relief as this Court deems just and proper.

Dated: New York, New York  
January 31, 2007

Yours, etc.

ANTHONY W. ECKERT, III, ESQ.

By: 

Anthony W. Eckert, III

Attorney for Defendants  
90 Park Avenue, 18<sup>th</sup> Floor  
New York, NY 10016  
(212) 455-9249

TO: DON A. CARLOS, JR., ESQ.  
Attorneys for Plaintiff  
352 Seventh Avenue  
Suite 1500  
New York, New York 10001  
(212) 631-7442

**VERIFICATION**

STATE OF NEW YORK      )  
                            ) ss:  
COUNTY OF NEW YORK    )

**ANTHONY W. ECKERT, III**, an attorney admitted to practice in the State of New York, affirms:

I am the attorney of record for defendants FEDERAL EXPRESS CORPORATION and LEONARDO RODRIGUEZ in the within action. I have read the foregoing Verified Answer and know the contents thereof; the same are true to my own knowledge, except as to the matters therein stated to be alleged on information and belief; and as to those matters I believe them to be true.

I further state that the reason this Verification is made by me and not by said defendant is because said party do not reside in New York County, where my office is located.

The grounds of my belief as to all matters not stated to be upon my knowledge, are investigative materials contained in my file and conversations with said defendant.

I affirm that the foregoing statements are true, under the penalty of perjury.

Dated: New York, New York  
January 31, 2007



\_\_\_\_\_  
Anthony W. Eckert, III

**AFFIDAVIT OF SERVICE BY MAIL**

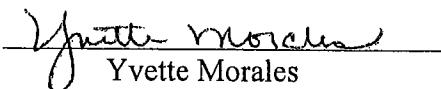
STATE OF NEW YORK )  
                         ) ss.:  
COUNTY OF NEW YORK )

Yvette Morales, being duly sworn deposes and says that deponent is not a party to the action, is over the age of 18 and resides in Kings County.

On the 31<sup>st</sup> day of January 2007, deponent served the within **VERIFIED ANSWER** upon:

DON A. CARLOS, JR., ESQ.  
Attorneys for Plaintiff  
352 Seventh Avenue  
Suite 1500  
New York, New York 10001

the address(es) designated by said attorney(s) by depositing same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.

  
Yvette Morales

Sworn to before me this  
31<sup>st</sup> day of January, 2007

  
Notary Public

ANTHONY W. COMERT III  
Notary Public to the State of New York  
No. 01-004850326  
Qualified in New York County  
Commission Expires Dec. 9, 2009

Index No. 22230-06

## Year 2006

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

JESUS VARGAS

**Plaintiff;**

- against -

LEONARDO RODRIGUEZ and FEDERAL EXPRESS CORP.

## Defendants

## VERIFIED ANSWER

ANTHONY W. ECKER III, ESQ.  
Attorney at Law  
Attorney for Defendants  
90 Park Avenue  
18<sup>th</sup> Floor  
New York, New York 10016  
Telephone (212) 455-9249  
Facsimile (212) 455-9251

TO: DON A. CARROS, JR., ESQ.  
Attorneys for Plaintiff  
352 Seventh Avenue  
Suite 1500  
New York, New York 10001  
(212) 631-7442

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JESUS VARGAS,

07 Civ. 2911 (PAC) (AJP)

Plaintiff,

**AFFIDAVIT OF  
SERVICE BY MAIL**

- against -

LEONARDO RODRIGUEZ  
and FEDERAL EXPRESS CORP.,

Defendants.

-----X

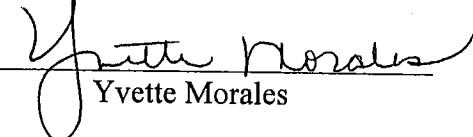
STATE OF NEW YORK )  
                          ) ss.:  
COUNTY OF NEW YORK )

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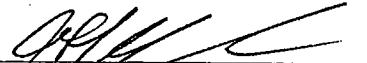
On the 11<sup>th</sup> day of April, 2007, deponent served the within **NOTICE OF REMOVAL** upon:

DON A. CARLOS, JR., ESQ.  
Attorneys for Plaintiff  
352 Seventh Avenue  
Suite 1500  
New York, New York 10001

the address(es) designated by said attorney(s) by depositing same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.

  
Yvette Morales

Sworn to before me this  
11<sup>th</sup> day of April, 2007.

  
Notary Public  
An Officer of the ECKER III  
Notary Public - State of New York  
My Reg. No. 46678  
Queens Co., New York County  
Commissioned June 9, 2009  
Commission Expires Dec. 9, 2009

**AFFIDAVIT OF SERVICE BY MAIL**

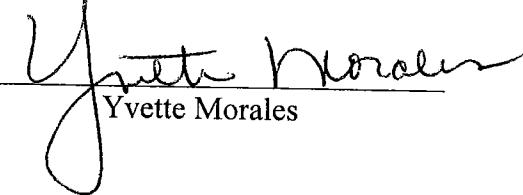
STATE OF NEW YORK      )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

Yvette Morales, being duly sworn deposes and says that deponent is not a party to the action, is over the age of 18 and resides in Kings County.

On the 16<sup>th</sup> day of May, 2007, deponent served the within **AFFIDAVIT OF ANTHONY W. ECKERT, III** upon:

Lloyd Katz, Esq.  
Carlos & Katz, Esqs.  
352 Seventh Avenue  
Suite 409  
New York, NY 10001

the address(es) designated by said attorney(s) by depositing same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.



Yvette Morales

Sworn to before me this  
16<sup>th</sup> day of May, 2007.



Notary Public

ANTHONY W. ECKERT III  
Notary Public, State of New York  
No. 02EC4989528  
Qualified in New York County  
Commission Expires Dec. 9, 2009